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*M. S.*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

*5*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/577,766

Applicant(s)

CAIN, ROBERT W.

Examiner

Ellen M McAvoy

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1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozbalik et al (6,034,040).

Ozbalik et al ["Ozbalik"] disclose lubricating oil compositions useful as manual transmission and axle lubricants which comprise a mineral oil having a) a Viscosity Index (VI) of greater than 110 and an aniline point of greater than 110<sup>0</sup>C and b) a linear and single ring paraffin content (saturates) of greater than 68 weight %. The composition also comprises from about 0.1 to 40 weight percent of at least one polymer selected from the group consisting of olefin (co)polymer, polyalkyl(meth)acrylate(s) and mixtures thereof; and from 2 to 25 weight percent of a detergent/inhibitor package containing one or more conventional additives. See column 1, line 60 to column 3, line 22. The VI is preferably between 110 and 135. See col. 2, lines 25-30. The polymer component may comprise mixtures of (b') at least one olefin copolymer with a number average molecular weight of from about 1,000 to about 10,000, and (b'') a polyalkyl (meth)acrylate having a number average molecular weight of from 10,000 to 250,000; in a ratio of (b'):(b'') of from 20:1 to 1:2. See column 2, lines 46-67. The olefin copolymer component may be present in the oil composition in an amount of up to 40 percent by weight. See column 9, lines 57-65. The detergent/inhibitor package useful in Ozbalik may

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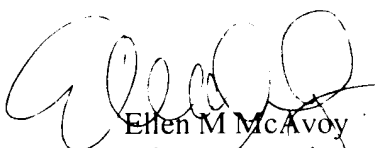
contain one or more conventional additives such as dispersants, antioxidants, extreme pressure additives, and anti-wear additives. Suitable extreme pressure additives include dihydrocarbyl polysulfides, sulfurized olefins and phosphorus-containing additives. See column 8, lines 27-64. Thus, the examiner is of the position that Ozbalik meets the limitations of the claims.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen M McAvoy whose telephone number is (703) 308-2510. The examiner can normally be reached on M-F (7:30-5:00) with alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knode can be reached on (703) 308-4311. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-5408 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Ellen M McAvoy  
Primary Examiner  
Art Unit 1764

EMcAvoy  
May 29, 2001